

SERVED: February 22, 2008

NTSB Order No. EA-5365

UNITED STATES OF AMERICA  
**NATIONAL TRANSPORTATION SAFETY BOARD**  
WASHINGTON, D.C.

Issued under delegated authority (49 C.F.R. 800.24)  
on the 22<sup>nd</sup> day of February, 2008

_____	)	
ROBERT A. STURGELL,	)	
Acting Administrator,	)	
Federal Aviation Administration,	)	
	)	
Complainant,	)	
	)	Docket SE-18086
v.	)	
	)	
MIKE'S CONTRACTING LLC,	)	
	)	
Respondent.	)	
_____	)	

**ORDER DISMISSING APPEAL**

The Administrator has moved to dismiss the appeal that respondent has filed in this proceeding, because respondent did not perfect his appeal by filing a timely appeal brief, as the Board's Rules of Practice require.<sup>1</sup> The Administrator's motion, to which respondent filed no responsive pleading, is granted.

<sup>1</sup> 821.48(a) **Briefs and oral argument.**

(a) Appeal brief... each appeal must be perfected, within 50 days after the date on which the oral initial decision was rendered, or 30 days after the date on which the written initial decision or appealable order was served, by the filing, and simultaneous service on the other parties, of a brief in support of the appeal. An appeal may be dismissed by the Board, either on its own initiative or on motion of another party, where a party who has filed a notice of appeal fails to perfect the appeal by filing a timely appeal brief.

The record establishes that respondent, through counsel, filed a timely notice of appeal from the September 11, 2007 decision of the law judge.<sup>2</sup> Respondent, however, did not file an appeal brief by the deadline established by § 821.48(a).<sup>3</sup> We have not received an appeal brief from respondent as of the date of this order.

Without good cause to excuse a failure to file a timely appeal brief, or a request to file one out of time before it is due, a party's appeal will be dismissed. Administrator v. Hooper, 6 NTSB 559 (1988).

**ACCORDINGLY, IT IS ORDERED THAT:**

1. The Administrator's motion to dismiss is granted; and
2. Respondent's appeal is dismissed.

Gary L. Halbert  
General Counsel

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<sup>2</sup> In granting the Administrator's motion for summary judgment, the law judge found that no genuine issue of material fact existed as to the allegations in the complaint and that the Administrator was entitled to judgment as a matter of law. The Administrator's emergency order suspended the standard airworthiness certificate of respondent's Alouette II model SE 3130 helicopter because it did not meet the requirements of 49 U.S.C. § 44704(d) for issuance of an airworthiness certificate. The Administrator also alleged that the helicopter did not meet the requirements of 14 C.F.R. § 21.183(c), in that the country in which the aircraft was manufactured did not certify at the time of export that the aircraft conformed to its type design and was in condition for safe operation. Further alleged was that respondent violated 14 C.F.R. § 91.417(a)(2)(ii) by failing to retain records pertaining to the current status of life limited parts of the airframe, engine, propeller, rotor and appliances so that a ready and accurate determination of the current status of all life limited parts could be made.

<sup>3</sup> Respondent waived the expedited procedures normally applicable to emergency suspension proceedings under the Board's rules.